

**IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF WEST VIRGINIA**

BECKLEY DIVISION

MICHAEL ALLEN KOKOSKI,

Petitioner,

v.

CIVIL ACTION NO. 5:07-0145

HATTIE SMALL, Acting Warden,
FCI Beckley,

Respondent.

ORDER

On March 22, 2007, the Magistrate Judge entered Proposed Findings and Recommendation recommending that the Court deny grounds three and four of Petitioner's 28 U.S.C. § 2241 petition. In Ground Three, Petitioner repeated claims of fraud relating to his 1992 conviction. As properly noted by the Magistrate Judge, this claim has been made and rejected in several actions brought by Petitioner. As to Ground Four, a claim of improper application of the career offender enhancement in his 1996 conviction for escape, the Magistrate Judge found it procedurally barred. Thus, both grounds were regarded as successive motions violative of 28 U.S.C. § 2244(b)(3).

Petitioner's objections provide no factual or legal basis to refute the Magistrate Judge's conclusion. Ground Three has been rejected in a number of the actions instituted by Petitioner. Ground Four was not asserted in a timely filed section 2255 motion. The Court **DENIES** Petitioner's objection, **ADOPTS** the Magistrate Judge's Proposed Findings and Recommendation and **DISMISSES** grounds three and four of the Petition. The remaining two grounds for relief are

still pending. The Court **REFERS** these remaining claims to Magistrate Judge Stanley for further disposition.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record, Magistrate Judge Stanley, and any unrepresented parties.

ENTER: September 27, 2007

A handwritten signature in black ink, appearing to read 'Robert C. Chambers', written over a horizontal line.

ROBERT C. CHAMBERS
UNITED STATES DISTRICT JUDGE